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Legal Department.

C **BRANCH**

Subject:— O. Public Trust 53

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Legal Department.

The first question for consideration is whether the amount can be invested in Government securities. The balance of the fund collected by the Cheap Grain Shop Committee is lying in the Bank of Baroda in the name of the Collector of Amreli and two members of the then Committee. The fund was raised by donations for helping the poor people of Amreli in obtaining foodgrains for them at lower rates from a shop to be opened for that purpose. The balance of the fund in the absence of a trust deed will have to be treated as a constructive trust. The Collector has sent a telegram that the Cheap Grain Shop Committee has resolved to invest the amount to purchase 4 per cent. Bombay Government loan. Under section 35 of the Bombay Public Trusts Act, 1950, where the trust property consists of money and cannot be applied immediately or at an early date to the purposes of the public trust, the trustee shall be bound subject to any direction contained in the instrument of trust to invest the money in public securities. In view of this provision, there would be no legal objection to investing the balance of the fund in Government securities as proposed.

The next question for consideration is what step should be taken in respect of the administra-

tion ofthe fund. It appears from the application of the members of the Cheap Grain Shop Committee that the amount is proposed to be utilised for the education of poor girls of Amreli town. This object being different from the original object for which the fund was collected, it would be necessary to obtain the directions of the Court under section 55 of the Bombay Public Trusts Act for the application of the amount cy pres. The provisions of sections 92 and 93 of the Civil Procedure Code are no longer applicable to public trusts in view of section 53 of the Bombay Public Trusts Act. The Committee members may apply to the Charity Commissioner under section 55 for his sanction to file a suit for the purpose.

Sd/-

O.C.

Secretary to Government.

U.R.to C.S.D. No. G- 432 dated the 23rd July 1953.

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Office of the R.L.A.

The Administrative Officer, Municipal Trust Properties, Sangli had requested the District Magistrate of Sangli to make arrangements to pay the arrears of rent for the area in which the three Government godowns were erected by the Sangli Government and which area now forms part of the Municipal Trust. He has claimed rent from the date of the merger i.e. from 8-3-1948. The District Magistrate is of the opinion that originally as the land was acquired by Government in 1926 and belonged to Government it would not be proper either to pay annual rent for the site or to purchase the land outright from the Trust by again paying its occupancy price. He has, therefore, suggested that necessary change will have to be made in the trust deed by deleting clause D from the Schedule XX of the trust deed. In this connection the Civil Supplies Department has raised the question for R.L.A's consideration whether Government can by any means resist the Administrative Officer's claim.

Even though the property may have belonged to the Sangli State originally, the property has now become the Trust Property under the orders of the Rajasaheb of Sangli passed on 6th March 1948. The trust deed shows that certain properties which were originally vested in His Highness the Raja-

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saheb of Sangli for the purposes of the Government of Sangli State, were transferred and became vested in the trustees from 8th day of March 1948. As held by the R. L.A. in his opinion No. 904-Confl., dated the 14th December 1950, it is neither necessary nor possible to amend the trust deed. The Administrati Officer is not claiming rent for the Government godowns but is only claiming ground rent for the land over which these godowns are situate and which land is part of the Trust Property. It will not, therefore, be possible to resist the claim of the Administrative Officer in any way and the rent will have to be paid by Government to the trustees.

Sd/- P.M.Lad.
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O.C.

Remembrancer of Legal Affairs.

U.R.to C.S.D.No. G- 752 dated the 7th December 1953.

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